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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,886	01/18/2001	Brian Keith Schmidt	0007056-0060/P5320/BBC	9319
23879	7590	03/16/2005	EXAMINER	
BRIAN M BERLINER, ESQ OMELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			BRUCKART, BENJAMIN R	
		ART UNIT	PAPER NUMBER	
		2155		

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/765,886	SCHMIDT, BRIAN KEITH
	Examiner	Art Unit
	Benjamin R Bruckart	2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 October 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6,8-13 and 15-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6,8-13 and 15-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 20041025.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

Detailed Action

Status of Claims:

Claims 1-6, 8-13, 15-20 are pending in this Office Action.

Claims 7, 14, 21 are canceled.

The amendment to the specification is accepted

The amendment to the drawings is accepted.

Response to Arguments

Applicant's arguments filed 10/25/04 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's invention as claimed:

Claims 1, 3, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by "Technical White Paper" (Vmware, Inc.).

Regarding claim 1, a method for managing resources for an active computing environment comprising:

 encapsulating said active computing environment into a compute capsule (Vmware: pages 2, 5), the compute capsule comprising a plurality of processes and their associated system environment (Vmware: pages 2, 5);

 promoting said compute capsule to a first class object status (Vmware: page 5; Resource Management, priorities);

 assigning system resources to said first class object, thereby collectively assigning said system resources to said plurality of processes (Vmware: page 5; Resource Management).

Regarding claim 3, the method of claim 1 wherein said assigning comprises applying a resource management algorithm (Vmware: page 6; application portion of Vmware VP. Standard allocation and paging policies).

Regarding claim 6, the method of claim 1 wherein said assigning comprises allowing user-level control over allocation of the system resources among the plurality of processes in the computer capsule (Vmware: page 5; Resource Management).

Claims 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable by “Technical White Paper” (Vmware, Inc.) in view of U.S. Patent No. 6,061,795 by Dircks et al.

Regarding claim 4, the Vmware reference teaches the method of claim 1 for managing resources for an active computing environment.

The Vmware reference teaches keeping file system and object integration separate but does not specifically state restricting access.

The Dircks reference teaches a desktop environment that restricts said processes from accessing a network (Dircks: col. 3, lines 22-37).

The Dircks reference further teaches the invention transparently and without interference allocates and facilitates access to resources to users (Dircks: col. 1, lines 33-67).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create the method of managing resources as taught by Vmware while employing restricting access as taught by Dircks in order to transparently and without interference, allocate and facilitate access to resources to users (Dircks: col. 1, lines 33-67).

Claims, 2 and 5 are rejected under the same rationale given above. In the rejections set forth, the examiner will address the additional limitations and point to the relevant teachings of Vmware and Dircks.

Regarding claim 5, the method of claim 1 wherein said assigning comprises restricting said first class object from accessing a local file system (Dircks: col. 8, lines 1-13).

Regarding claim 2, the method of claim 1 wherein said system resources comprise a guaranteed share of resources (Dircks: col. 1, lines 33-39).

While the examiner understands the difference between a method, system and a computer program product, the examiner relates these to the hardware, features, and software in which the invention runs. Therefore claims 8-13 and 15-20 are rejected under the same grounds as their corresponding similar claims from 1-6.

1	8	15
2	9	16
3	10	17
4	11	18
5	12	19
6	13	20

Claims 8, 10, 13, 15, 17, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by “Technical White Paper” (Vmware, Inc.).

Claims 9, 11-12, 16, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable by “Technical White Paper” (Vmware, Inc.) in view of U.S. Patent No. 6,061,795 by Dircks et al.

CONCLUSION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R Bruckart whose telephone number is (571) 272-3982. The examiner can normally be reached on 8:00-5:30PM with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Benjamin R Bruckart
Examiner
Art Unit 2155
brb

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mlA
HOSAIN ALAM
SUPERVISORY PATENT EXAMINER